

CUAUHTEMOC ORTEGA (Bar No. 257443)
Federal Public Defender
YOUNG J. KIM (Bar No. 264195)
Deputy Federal Public Defender
(E-Mail: Young_Kim@fd.org)
3801 University Avenue, Suite 700
Riverside, California 92501
Telephone: (951) 276-6346
Facsimile: (951) 276-6368

Attorneys for Defendant
AMAN KHAN

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

AMAN KHAN,

Defendant.

Case No. ED CR 22-00123-RGK

**AMAN KHAN'S
SENTENCING MEMORANDUM**

September 26, 2022, at 10:00 a.m.

I. INTRODUCTION

On June 6, 2022, Mr. Khan pled guilty to two counts of fraud involving aircraft parts in interstate and foreign commerce, in violation of 18 U.S.C. § 38, (2)(b). Mr. Khan entered his plea pursuant to a plea agreement ("Plea Agreement") in which the parties agreed to an offense level under the United States Sentencing Guidelines (the "Guidelines") of 21 after acceptance of responsibility. Further, the parties reserved the right to argue that specific offense characteristics, adjustments, and departures under the Guidelines may apply as appropriate.

1 In its Presentence Investigation Report (“PSR”), the United States Probation
 2 Office (the “Probation Office”) places Mr. Khan in Criminal History Category (“CHC”)
 3 III with 5 criminal history points and determined that the offense level is 21 under the
 4 Guidelines. PSR, ¶¶ 38, 49. An offense level of 21 and a CHC of III results in a
 5 recommended Guidelines range of 46 to 57 months in custody.

6 Mr. Khan has no objections to the calculation of his offense level but objects to
 7 the CHC in the PSR. Mr. Khan asserts that the correct CHC is II and the resulting
 8 Guidelines range is 41 to 51 months of custody. Based on the reasons below, Mr. Khan
 9 respectfully requests that this Court impose a sentence of 36 months of custody to be
 10 followed by three years of supervised release.

11 **II. OBJECTIONS TO THE PSR**

12 The PSR adds two criminal history points for having committed the instant
 13 offense “while under a criminal justice sentence including supervised release in Docket
 14 Nos. SA CR04-00152 and SA CR02-00080(B).” PSR, ¶ 48. The supervised release
 15 terms for Docket Nos. SA CR04-00152 and SA CR02-00080(B) ran concurrent from
 16 May 4, 2016, to May 3, 2019. PSR, ¶ 46. The first instance of fraud involving Mr.
 17 Khan’s company, California Aircraft and Avionics Corporation, occurred in April of
 18 2021, which is after supervision had terminated. PSR, ¶ 16. There is no evidence that
 19 Mr. Khan committed fraud while under supervised release, therefore, the correct CHC
 20 is II with three criminal history points.

21 **III. SENTENCING CONSIDERATIONS UNDER 18 U.S.C. § 3553(A)**

22 **A. The Overarching Principle**

23 The very first sentence of 18 U.S.C. § 3553(a) establishes the following
 24 requirement: “The court shall impose a sentence sufficient, but not greater than
 25 necessary, to comply with the purposes [of sentencing] set forth in subparagraph (2) of
 26 this subsection.” The Supreme Court has described this as the “overarching provision”
 27 in § 3553(a). *Kimbrough v. United States*, 128 S. Ct. 558, 570 (2007). This statement
 28

1 by the Supreme Court makes clear that this “parsimony principle” is not mere precatory
2 language but is the key requirement that a sentence must satisfy.

3 Factors which § 3553(a) directs a district court to consider in addition to the
4 guidelines are (1) the nature and circumstances of the offense and the history and
5 characteristics of the defendant; (2) the purposes of sentencing; (3) the kinds of
6 sentences available; and (4) the need to avoid unwarranted sentence disparities.

7 **B. The Nature and Circumstances of the Offense and the History and**
8 **Characteristics of the Defendant**

9 **1. Mr. Khan is in very poor health**

10 Mr. Khan was born in 1949, in Karachi, Pakistan to his father, Abdul Rehnan
11 Khan and his mother, Hafiza Begum Khan. He is now 73 years old. For the past 35
12 years, Mr. Khan has been managing his diabetes. He also suffers from high cholesterol,
13 hypertension and thyroid problems. Mr. Khan has a history of heart attacks and
14 diabetes in his family. His mother died of a heart attack at only 58 years old and Mr.
15 Khan worries that he will meet the same fate. Mr. Khan is currently taking 10
16 prescription medications while in custody.

17 **2. Mr. Khan took extraordinary acceptance of responsibility**

18 Mr. Khan was arrested in this case on April 20, 2022. The government produced
19 discovery on April 28, 2022. On May 3, 2022, the government extended a plea offer
20 with a very short deadline. Mr. Khan agreed to accept responsibility for his crimes and
21 signed the plea agreement on May 4, 2022, which is *14 days after his arrest*. By any
22 measure, Mr. Khan took extraordinary acceptance of responsibility in this case. By
23 accepting responsibility so early, Mr. Khan conserved government resources and the
24 Court’s time. *United States v. Brown*, 985 F.2d 478, 483 (9th Cir. 1993) (“[t]he mere
25 existence of section 3E1.1(a) does not preclude the sentencing court from making an
26 additional departure in the case where the defendant manifests an extraordinary
27 acceptance of responsibility”).

28 ///

C. Just Punishment, Deterrence, Public Protection, and Respect for the Law

The considerations of just punishment, deterrence, public protection, and respect for the law will be advanced by Mr. Khan's proposed sentence. Removing Mr. Khan from society for 3 years will likely afford protection to the public for the rest of Mr. Khan's life because sexagenarians, relative to other age groups, tend not to commit crimes. Robert J. Sampson, *Life Course Desisters? Trajectories of Crime Among Delinquent Boys Followed to Age 70*, *Criminology*, Vol. 41, 3: 555-592 (2003.) In fact, a 2017 report by the United States Sentencing Commission found that "[o]lder offenders were substantially less likely than younger offenders to recidivate following release." United States Sentencing Commission, *The Effects of Aging on Recidivism Among Federal Offenders* (2017). Moreover, the lower rates of recidivism by sexagenarians applied across numerous axes, including type of crime, criminal history category, length of sentence, and base offense level. *Ibid.*

Regarding deterrence, while it has been demonstrated that the certainty of getting caught can produce a deterrent effect, "increases in severity of punishments do not yield significant (if any) marginal deterrent effects." Michael Tonry, *Purposes and Functions of Sentencing*, 34 *Crime & Justice* 1, 28-29 (2006); see also Zvi D. Gabbay, *Exploring the Limits of the Restorative Justice Paradigm: Restorative Justice and White Collar Crime*, 8 *Cardozo J. Conflict Resol.* 421, 447 (2007) ("[C]ertainty of punishment is empirically known to be a far better deterrent than its severity."). Generally, few criminals are aware of the specific penalties for crimes and fewer still believe they will be apprehended and convicted. See Tonry, *Purposes and Functions of Sentencing*, *supra*, at 28-29. In other words, the idea that longer sentences produce greater amounts of deterrence is simply not supported by evidence. M.J.G Bun *et al.*, *Crime, Deterrence and Punishment Revisited*, *Empirical Economics* 59, 2302-2333 (2020).

IV. CONCLUSION

For the reasons given above, Mr. Khan requests that the Court sentence him to 36 months of custody.

Respectfully submitted,

CUAUHTEMOC ORTEGA
Federal Public Defender

DATED: September 12, 2022

By /s/ Young J. Kim

YOUNG J. KIM
Deputy Federal Public Defender

PROOF OF SERVICE

I declare that I am a resident or employed in Riverside, County, California; that my business address is the Office of the Federal Public Defender, 3801 University Avenue, Suite 700, Riverside, California 92501; that I am over the age of eighteen years; that I am not a party to the action entitled above; that I am employed by the Federal Public Defender for the Central District of California, who is a member of the Bar of the State of California, and at whose direction I served a copy of the attached **AMAN KHAN'S SENTENCING MEMORANDUM** on the following individual(s) by:

☐ Placing
same in a sealed
envelope for
collection and
interoffice delivery
addressed as
follows:

☐ Placing
same in an
envelope for hand
delivery addressed
as follows:

☐ Placing
same in a sealed
envelope for
collection and
mailing via the
United States Post
Office addressed as
follows:

☒ Via
Emailing same
addressed as
follows:

LESLIE CREWS
United States Probation Officer
Leslie_crews@cacp.uscourts.gov

This proof of service is executed at Riverside, California, on **September 12, 2022**.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

s/ Isabel Rivera
ISABEL RIVERA